

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WILLIAM MIDGETTE,

Plaintiff,

V.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, and
TRANSPORTATION SECURITY
ADMINISTRATION,

Defendants.

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) **Civil Action No.: 05-10129-RGS**
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**UNITED STATES' MOTION TO DISMISS THE COMPLAINT
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Pursuant to Fed. R. Civ. P. 12(b)(6), the United States hereby moves for dismissal on the ground that the plaintiff has failed to state a claim for which relief may be granted. In support of the motion, the United States submits that attached memorandum of law.

Wherefore, the United States requests that the complaint be dismissed.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Jeffrey M. Cohen
Jeffrey M. Cohen
Assistant U.S. Attorney
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(617) 748-3100

Dated: June 24, 2005

CERTIFICATION UNDER L.R. 7.1

The Defendants takes the position that L.R. 7.1 requires “counsel” to confer and is not

applicable where, as here, the opposing party is *pro se*. Alternatively, counsel for the Defendants respectfully requests leave to file this Motion without a 7.1 conference.

/s/ Jeffrey M. Cohen

Jeffrey M. Cohen

Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I certify that on June 24, 2005, I caused a copy of the foregoing Motion to be served on Plaintiff by first class mail, postage pre-paid to Apt. 117, 5 Admiral Way, Chelsea, MA 02150-4004

/s/ Jeffrey M. Cohen

Jeffrey M. Cohen

Assistant U.S. Attorney